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Attorneys for Defendants

Teck Cominco American Incorporated and

Teck Cominco Advanced Materials Incorporated

UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

CARLETTA JUSTICE, a minor, and
YOLANDA JUSTICE, a minor, by and through
their guardian ad litem, BOBBY BROWN,

Plaintiffs,

v.

DOES 1 TO 500, inclusive

Defendants.

) CASE NO. 06-CV-3328-MHP

) **DEFENDANTS TECK COMINCO**
) **AMERICAN INCORPORATED and TECK**
) **COMINCO ADVANCED MATERIALS**
) **INCORPORATED'S REQUEST FOR**
) **LEAVE TO FILE RULE 12 MOTIONS**
) **AND PROPOSED ORDER**

REQUEST FOR LEAVE OF COURT

COME NOW Defendants, TECK COMINCO AMERICAN INCORPORATED and TECK
COMINCO ADVANCED MATERIALS INCORPORATED, by and through their attorneys, LEWIS
BRISBOIS BISGAARD & SMITH, LLP., and respectfully request, pursuant to this Honorable
Court's Standing Order Number 4, leave to file their Federal Rule of Civil Procedure 12(b)6 and 12(e)
motions in response to plaintiffs CARLETTA JUSTICE and YOLANDA JUSTICE's Complaint on
the basis that said Complaint fails to state facts sufficient to establish any cause of action or

cognizable legal theory against Defendants TECK COMINCO AMERICAN INCORPORATED and
TECK COMINCO ADVANCED MATERIALS INCORPORATED.

Respectfully submitted,

DATED: June 5, 2006

LEWIS BRISBOIS BISGAARD & SMITH LLP

By



PAUL A. DESROCHERS

Attorneys for Defendants

Teck Cominco American Incorporated and Teck Cominco
Advanced Materials Incorporated

ORDER

This court hereby grants the request of Defendants TECK COMINCO AMERICAN
INCORPORATED and TECK COMINCO ADVANCED MATERIALS INCORPORATED for leave
to file their motions pursuant to Federal Rule of Civil Procedure 12(b)(6) and 12(e).

Dated: July 26, 2006

THE HONORABLE



TELL

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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

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CARLETTA JUSTICE, a minor, and
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their guardian ad litem, BOBBY BROWN,

Plaintiffs,

v.

DOES 1 TO 500, inclusive

Defendants.

CASE NO. 06-CV-3328-MHP

**(PROPOSED) ORDER GRANTING
DEFENDANTS TECK COMINCO
AMERICAN INCORPORATED and TECK
COMINCO ADVANCED MATERIALS
INCORPORATED'S MOTION TO
DISMISS PURSUANT TO F.R.C.P. 12(B)(6)**

Date: July 17, 2006

Time: 2:00 p.m.

Dept.: 15

Good cause appearing therefore based on this court's ruling that Plaintiffs CARLETTA JUSTICE and YOLANDA JUSTICE, through their guardian ad litem, BOBBY BROWN have failed to state facts sufficient to constitute any cause of action or cognizable legal theory against defendants TECK COMINCO AMERICAN INCORPORATED and TECK COMINCO ADVANCED MATERIALS INCORPORATED.

This court hereby grants the motion of Defendants TECK COMINCO AMERICAN INCORPORATED and TECK COMINCO ADVANCED MATERIALS INCORPORATED pursuant to Federal Rule of Civil Procedure 12(b)(6) with prejudice and without leave to amend.

Dated: _____

THE HONORABLE MARILYN HALL PATEL

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Attorneys for Defendants

Teck Cominco American Incorporated and

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CARLETTA JUSTICE, a minor, and
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their guardian ad litem, BOBBY BROWN,

Plaintiffs,

v.

DOES 1 TO 500, inclusive

Defendants.

) CASE NO. C06-3328 MHP

) **CERTIFICATE OF SERVICE OF NOTICE**
) **OF TECK COMINCO AMERICAN**
) **INCORPORATED and TECK COMINCO**
) **ADVANCED MATERIALS**
) **INCORPORATED'S REQUEST FOR**
) **LEAVE TO FILE RULE 12 MOTIONS**
) **AND PROPOSED ORDER**

I, TERRI WONG, certify and declare as follows:

I am employed in the County of San Francisco, State of California. I am over the age of 18 and not a party to the within action. My business address is One Sansome Street, Suite 1400, San Francisco, CA 94104, which is located in the city, county and state where the mailing described below took place.

On June 5, 2006, I deposited with the United States Postal Service at San Francisco, California, a true and correct copy of the following documents:

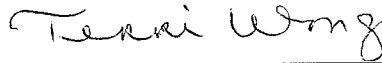
TECK COMINCO AMERICAN INCORPORATED and TECK COMINCO
ADVANCED MATERIALS INCORPORATED'S REQUEST FOR LEAVE TO FILE
RULE 12 MOTIONS AND PROPOSED ORDER

on the interested parties in this matter as follows:

Clayton W. Kent
Brayton Purcell, LLP
222 Rush Landing Road
Novato, CA 94948-6169

Attorneys for Plaintiffs CARLETTA
JUSTICE and YOLANDA JUSTICE

I declare under penalty of perjury under the state and federal laws of the State of California that the foregoing is true and correct and that I am employed in the office of a member of the bar of this Court at whose direction the service was made. Executed on June 5, 2006, at San Francisco, California.



Terri Wong